

Exhibit 6 – US EPA Determination of imminent and substantial threat –
Lake Geneva, Wisconsin



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

MEMORANDUM

HSE-5J

JUL 19 1994

DATE:

SUBJECT: ACTION MEMORANDUM - Determination of Threat to Public Health or Welfare or the Environment at the Southern Lakes Trap and Skeet Site, Lake Geneva, Walworth County, Wisconsin (Site ID #TX)

FROM: Brad Benning, On-Scene Coordinator
for Emergency Response Section II

Donald J. Bruce

TO: William E. Muno, Director
Waste Management Division

THRU: Jodi Traub, Acting Associate Division Director
Office of Superfund

I. PURPOSE

The purpose of this memorandum is to document the determination of an imminent and substantial threat to public health and the environment posed by the presence of hazardous substances at the Southern Lakes Trap and Skeet Club, located in Lake Geneva, Walworth County, Wisconsin. The hazardous substance is lead in the form of lead shot which has accumulated in a wetland over the course of the sites operation since 1968. In January of 1992, the United States Fish and Wildlife Service (USFWS) documented the die-off of 218 Canada geese that occurred on Lake Geneva. Necropsies performed on several of the geese revealed that the birds were in good health but had ingested large numbers of lead shot and had died of acute lead poisoning.

CERCLIS ID No. WID988637278



II. SITE CONDITIONS AND BACKGROUND

A. Site Description

1. Removal site evaluation

The investigation focused on the Southern Lakes Trap and Skeet club located 3-4 miles from where the geese were recovered on Lake Geneva. Examination of the ingested shot revealed the size shot utilized for skeet and showed deformations consistent with having been fired from a shotgun. Bottom samples were taken by USFWS and revealed in excess of 24 million shot pellets per acre in parts of the wetland. Additional evidence suggests that the geese ingested the lead shot during a very cold period in January. A spring fed stream that traverses the wetland provided some of the only open water in the area. The geese were attracted to the open water and fed on grasses there and at the same time ingested lead shot, taking it for grit.

2. Physical location

The Southern Lakes Trap and Skeet club is located on the grounds of the Americana Resort in Lake Geneva, Wisconsin approximately 3-4 miles northeast of Lake Geneva, (T2N-R18E-SWSW Sec. 20). The surrounding land use is agricultural and recreational with limited residential within 1/2 mile.

3. Site characteristics

Southern Lakes has operated the range since 1981, although it has been in operation under different ownership since 1968. The site consisted of a trap and skeet range with three skeet houses and three trap bunkers. The shooting stations were set so that the clay pigeons and shot fell into a large wetland located directly in front of the houses. Large piles of clay pigeons and numerous shotgun wads were evident in the wetland. The wetland is about 34 acres in size mostly covered with cattails and sedges and is listed on WDNR's wetland inventory as persistent and nonpersistent narrow leaved emergent vegetation in wet soils or open water (E2H, E2K, and E4/WOH). A channelized stream flows from east to west in front of the range, and ultimately joins the White River.

4. Release or threatened release into the environment of a hazardous substance, or pollutant or contaminant

As a result of the USFWS investigation, the release of lead into the environment has allegedly resulted in the death of a significant number of migratory water fowl. The lead shot continues to pose a threatened release into the environment via leaching into wetland sediments and surface waters.

5. NPL status

The Southern Lakes Trap and Skeet site is not on the National Priorities List (NPL), and is not likely to be proposed for the NPL.

6. Maps, pictures and other graphic representations

Attachment III

B. Other Actions to Date

1. Previous actions

As part of the Damage Assessment required by USFWS a plant inventory was conducted in August to characterize the plant community, especially in terms of rare, threatened, or endangered species. No previous removal actions have occurred at the site.

2. Current actions

The Assessment Plan for the Natural Resource Damage Assessment, received limited comments during the 30-day comment period, no significant changes were made to the "draft" Assessment Plan, which is now in "draft-final" version. USEPA is currently negotiating with the PRP's to perform a site assessment to determine the extent of lead contamination at the site.

C. State and Local Authorities' Roles

1. State and local actions to date

WDNR collected the initial samples at the Southern Lakes site on February 19, 1992, to determine the extent of lead shot at the site. WDNR was also involved in the recovery of dead geese and many of the necropsies that were conducted on the geese.

2. Potential for continued State/local response

On November 25, 1992, the USFWS notified the WDNR of potential co-trusteeship at the site. The WDNR has declined to participate as a trustee for this case. USEPA does not anticipate any significant involvement by the WDNR, but they will be kept informed as the removal progresses.

III. THREATS TO PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT, AND STATUTORY AND REGULATORY AUTHORITIES

A. Threats to Public Health or Welfare

The conditions at the Southern Lakes Site meet the criteria for a removal action as stated in the National Contingency Plan (NCP), Section 300.415(b)(2).

*Actual or potential exposure to hazardous substances or pollutants or contaminants by nearby populations, animals, or the food chain.

This factor is present at the site due to the existence of lead shot in a wetland utilized as a feeding area for migrating birds. In January 1992, the USFWS investigated the death of 218 Canada geese on Lake Geneva, Wisconsin. USFWS determined that the cause of death was acute lead poisoning after ingestion of lead shot from the site. The concentration of total lead in the sediments is high enough to warrant concern even without preferential ingestion for grit. Potential ingestion by any bottom feeding organisms able to engulf lead shot might be expected to suffer injury.

*Actual or potential contamination of drinking water supplies or sensitive ecosystems.

This factor is present at the site due to the existence of lead shot throughout a 36 acre wetland. Sediment samples at the site revealed up to 24 million pellets per acre. The geologic resource may potentially be impaired to the point of being unable to provide suitable habitat for waterfowl and other wetland species.

*High levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface, that may migrate.

This factor is present at the site due to the existence of a large source of lead shot concentrated in a wetland area. The potential exists for the lead shot to slowly dissolve and migrate into the sediments and surrounding surface waters.

IV. ENDANGERMENT DETERMINATION

Due to the existence of lead shot in a wetland which is utilized as a feeding area for migrating birds, that the geologic resource may potentially be impaired as a suitable habitat, and that lead may potentially migrate into sediments and surface waters, actual or threatened releases of hazardous substances from the South Lakes Trap and Skeet Club, if not addressed by implementing the response actions selected in this Action Memorandum, may present an imminent and substantial endangerment to public health, or welfare, or the environment.

V. PROPOSED ACTIONS AND ESTIMATED COSTS

A. Proposed Actions

1. Proposed action description

Pursuant to the AOC, the PRPs intend to undertake the following actions to mitigate threats posed by the presence of hazardous substances at the Southern Lakes site:

- a. Implement the Site Health and Safety Plan
- b. Conduct an approved assessment plan pursuant to USEPA response authority and the USFWS Natural Resource Damage Assessment (NRDA) authority under CERCLA.
- c. Conduct an appropriate removal action based on lead shot distribution, to mitigate the threat of lead exposure to migratory birds and the environment.
- d. The removal action shall utilize the Best Demonstrated Available Technology (BDAT) for the removal of lead shot.
- e. Conduct site restoration as deemed appropriate by the USEPA and USFWS.
- f. If necessary, implement appropriate measures to restrict site access to migratory birds to prevent feeding in the wetland area.
- g. Conduct adequate confirmation sampling to verify completion of the removal action.

2. Contribution to remedial performance

The proposed removal action will remove all hazardous substances from the site, eliminating future sources of contamination.

3. Description of alternative technologies

Reuse/recycling of hazardous substances at the site will be the preferred option prior to any off-site treatment and disposal.

4. Applicable or relevant and appropriate requirements (ARARs)

Federal ARARs determined to be applicable for the site are the Resource Conservation and Recovery Act, the Migratory Bird Treaty Act and the Clean Water Act. WDNR was contacted as co-trustee of the wetland but has declined to participate. Any State ARARs identified in a timely manner for this removal action will be complied with to the extent practicable.

5. Post Removal Site Control

The OSC has begun planning for provision of post-removal site control, consistent with the NCP. Elimination of all surface threats during this removal action is, however, expected to minimize the need for post-removal site control.

The response actions described in this memorandum directly address actual or threatened releases of hazardous substances, pollutants or contaminants at the facility which may pose an imminent and substantial endangerment to public health and safety, and to the environment. These response actions do not impose a burden on affected property disproportionate to the extent to which that property contributes to the conditions being addressed.

VI. EXPECTED CHANGE IN THE SITUATION SHOULD ACTION BE DELAYED OR NOT TAKEN

Delay or non-action may result in an increased chance of direct contact threat to wildlife populations accessing the site and the degradation of the wetland and surface water conditions.

VII. OUTSTANDING POLICY ISSUES

No significant policy issues are associated with the the Southern Lakes Site.

VIII. ENFORCEMENT

The PRP's have been identified and appropriate enforcement action has been initiated. For Administrative purposes, information concerning the enforcement strategy for this site is contained in the Enforcement Confidential addendum. (Attachment I)

IX. RECOMMENDATION

This decision document represents the selected removal action for the Southern Lakes Trap and Skeet site in Lake Geneva, Wisconsin, developed in accordance with CERCLA as amended, and not inconsistent with the NCP. This decision is based on the Administrative Record for the site. (Attachment III). Conditions at the site meet the NCP section 300.415(b)(2) criteria for a removal action.

APPROVED: _____

Wm. E. Munn
DIRECTOR, WASTE MANAGEMENT DIVISION

DATE: _____

7/15/94

DISAPPROVED: _____

DIRECTOR, WASTE MANAGEMENT DIVISION

DATE: _____

cc: T. Johnson, OS-210
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